CLAUSES 2 AND 3

Mr. DEPUTY SPEAKER.—The question is:

"That Clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Schedule.

Mr. DEPUTY SPEAKER.—The question is:

"That the Schedule stand part of the Bill."

The motion was adopted.

The Schedule was added to the Bill.

CLAUSE 1, etc.

Mr. DEPUTY SPEAKER.—The question is:

"That Clause 1, the Title and the Preamble stand part of the Bill."

The motion was adopted.

Clause 1, the Title and the Preamble were added to the Bill.

Motion to Pass

Sri RAMAKRISHNA HEGDE.—Sir, I beg to move:

"That the Mysore Appropriation (No. 2) Bill, 1968, be passed."

Mr. DEPUTY SPEAKER.—The question is:

"That the Mysore Appropriation (No. 2) Bill, 1968, be passed."

The motion was adopted.

The Mysore Appropriation (No. 2) Bill, 1968, was passed.

OFFICIAL RESOLUTION UNDER ARTICLE 252 OF THE CONSTITUTION OF INDIA RELATING TO ESTATE DUTY

Sri RAMAKRISHNA HEGDE (Minister for Finance).—Sir, I beg to move:

"That whereas during the period of operation of the Proclamation of Emergency, the Estate Duty Act, 1953 (34 of 1953),

has been amended by Parliament by the following Acts, namely :—

(1) The Central Boards of Revenue Act, 1963 (54 of 1963);
(2) The Finance Act, 1964 (5 of 1964);
(3) The Taxation Laws (Continuation and validation of recovery Proceedings) Act, 1964 (11 of 1964);
(4) The Direct Taxes (Amendment) Act, 1964 (31 of 1964);
(5) The Finance Act, 1965 (10 of 1965);
(6) The Finance (No. 2) Act, 1965 (15 of 1965);
(7) The Taxation Laws (Amendment and Miscellaneous Provisions Act), 1965 (41 of 1965); and
(8) The Finance Act, 1966 (No. 13 of 1966).

And Whereas under clause (2) of article 250 of the Constitution the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land, shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate;

And Whereas after the proclamation has ceased to operate, Parliament has no power to make laws for the States except as provided in article 249 of the Constitution with respect to matters specified in the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land;

And Whereas it appears to this Assembly to be desirable that the matters specified in the Acts aforesaid should be regulated in the State by Parliament by law notwithstanding the expiration of the period of six months after the proclamation has ceased to operate;

Now, therefore, this Assembly hereby resolves in pursuance of article 252 of the Constitution that the matters specified in the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land should be regulated in the State by Parliament by Law."

Mr. DEPUTY SPEAKER.—Motion moved:

† Sri K. H. RANGANATH.—Sir, I raise a point of Order.

Mr. DEPUTY SPEAKER.—Let the motion be before the House. Motion moved:

"Whereas during the period of operation of the proclamation of Emergency, the Estate Duty Act, 1953 (34 of 1953), has been amended by Parliament by the following Acts, namely:—

(1) The Central Boards of Revenue Act, 1963 (54 of 1963)
(2) The Finance Act, 1964 (5 of 1964).
(3) The Taxation Laws (Continuation and validation of Recovery Proceedings) Act, 1964 (11 of 1964).
(4) The Direct Taxes (Amendment) Act, 1964 (31 of 1964).

(MR. DEPUTY SPEAKER)

(5) The Finance Act, 1965 (10 of 1965).
(6) The Finance (No. 2) Act, 1965 (15 of 1965).
(7) The Taxation Laws (Amendment and Miscellaneous Provisions Act), 1965 (41 of 1965) and
(8) The Finance Act, 1966 (No. 13 of 1966).

And Whereas under clause (2) of article 250 of the Constitution the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land, shall cease to have effect on the expiration of a period of six months after the proclamation has ceased to operate;

And Whereas after the proclamation has ceased to operate, parliament has no power to make laws for the States except as provided in article 249 of the Constitution with respect to matters specified in the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land;

And Whereas it appears to this Assembly to be desirable that the matters specified in the Acts aforesaid should be regulated in the State by parliament by law notwithstanding the expiration of the period of six months after the proclamation has ceased to operate;

Now, therefore, this Assembly hereby resolves in pursuance of article 252 of the Constitution that the matters specified in the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land should be regulated in the State by Parliament by Law."

† SRI K. H. RANGANATH.—Sir, I raise a point of order. It is said that:

"Whereas during the period of operation of the proclamation of Emergency the Estate Duty Act, 1953 (34 of 1953), has been amended by Parliament by the following Acts, *viz.*, etc."

In fact article 252 sub-clause (2) states:

"252. (2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies be amended or repealed by an Act of the Legislature of that State."

My point of Order is that this State has already passed a resolution somewhere in the year 1955 and to move the amendments now, to the Estate Duty Act of 1953, a resolution should have been brought and then amendments should have been passed by the Parliaments. The Parliament should not have passed the amendments which are now before us and futher we cannot now pass resolution adopting the amendments

because section 5 of the Estate Duty Act is already there in the statute book and our State is already there, *i.e.*, the FIRST SCHEDULE Section 5 of the Estate Duty wherein it is said as follows :

"THE FIRST SCHEDULE

(See Section 5)

States in which estate duty is leviable on agricultural land

Bombay
Madhya Pradesh
Orissa
Uttar Pradesh
Hyderabad
Madhya Bharat
Rajasthan
Saurashtra
All Part C States.

This was in the year 1953."

Sir, in regard to the parts that have now come to us, for that also we have adopted a resolution and therefore, the resolution is unnecessary since this State has already passed this resolution.

Sri M. NAGAPPA.—Sir, in support of the point of Order, I wish to submit certain facts.

Mr. DEPUTY SPEAKER.—Yes.

ಶ್ರೀ ಎಂ. ನಾಗಪ್ಪ.—ಸ್ವಾಮಿ, ಈ ಕ್ರಿಯಾಲೋಪದಲ್ಲಿ ಬಹಳ ಮಹತ್ವವಾದಂಥ ವಿಷಯಗಳನ್ನು ಈ ಸಭೆಗೆ ಮನಸಬೇಕಾಗಿದೆ. ಏಕೆ ಎಂದು ಕೇಳಿದರೆ ಆರ್ಟಿಕಲ್ 250ರ ಪ್ರಕಾರ ಸೆಂಟ್ರಲ್ ಗವರ್ನಮೆಂಟ್‌ನಲ್ಲಿ ಪಾರ್ಲಿಮೆಂಟಿಗೆ ಒಂದು ಕಾಯಿದೆ ಮಾಡತಕ್ಕ ಅಧಿಕಾರ ಎಮರ್ಜೆನ್ಸಿಯಿಂಗೆ ಇದೆ. ಅದರ ಅದು ಎಂತಹ ಕಾಯಿದೆಗಳು, ಯಾವ್ಯಾವುದು ಸ್ಟೇಟ್ ಗವರ್ನಮೆಂಟಿಗೆ ಅನ್ವಯವಾಗಬೇಕು. ಸ್ಟೇಟ್ ಗವರ್ನಮೆಂಟ್‌ನಲ್ಲಿರುವ ಕಾಯಿದೆಗಳನ್ನು ಎಮರ್ಜೆನ್ಸಿ ಎಂದು ಡಿಕ್ಲೇರ್ ಮಾಡಿದರೆ ಅಂತಹ ಕಾಯಿದೆಗಳನ್ನು ಸೆಂಟ್ರಲ್ ಗವರ್ನಮೆಂಟಿನವರು ಮಾಡಬಹುದು ಎಂಬುದಾಗಿ ಆರ್ಟಿಕಲ್ 250ರಲ್ಲಿದೆ. ಅದರಂತೆ ಸರ್ಕಾರ ಈ ಎಸ್ಟೇಟ್ ಡ್ಯೂಟಿ ಆಕ್ಟ್ ಮಾಡಿದ್ದು. ಅದು 25) ಆರ್ಟಿಕಲ್ ಪ್ರಕಾರ ಇಲ್ಲ. ಈ ಎಸ್ಟೇಟ್ ಡ್ಯೂಟಿ ಆಕ್ಟ್ ಕಾರ್ಯರೂಪದಲ್ಲಿ ಬಂದುದು 1953ನೇ ಇಸವಿಯಲ್ಲಿ. ಎಮರ್ಜೆನ್ಸಿ ಡಿಕ್ಲೇರ್ ಆಗಿರುವುದು 1962ರಲ್ಲಿ. ಈ ಕಾಯಿದೆ ಈಗಾಗಲೆ ಸ್ಯಾಚ್ಯೂಟ್ ಬುಕ್‌ನಲ್ಲಿದೆ. ಅದನ್ನು 250 ಆರ್ಟಿಕಲ್ ಪ್ರಕಾರ ಮತ್ತೊಂದು ಸಾರಿ ಮಾಡುತ್ತೇವೆಂದು ಹೇಳುವುದು ಸಮಂಜಸವಾದುದಲ್ಲ. ಅದರೆ ಅವರು ಮಾಡುವ ಕೆಲವು ತಿದ್ದುಪಡಿಗಳು ಅಂದರೆ ಇನ್ ಡೈರೆಕ್ಟಾಗಿ ಇವತ್ತಿನ ಅಧಿಕೃತ ನಿರ್ಣಯದಲ್ಲಿ 8 ಆಕ್ಟ್‌ಗಳನ್ನು ತೋರಿಸಿರುವ ಹಾಗೆ ಅವುಗಳಲ್ಲಿ ಕೆಲವು ಕಲಂಗಳನ್ನು ಎಸ್ಟೇಟ್ ಡ್ಯೂಟಿ ಆಕ್ಟ್‌ಪ್ರಕಾರ ತಿದ್ದುಪಡಿ ಮಾಡಿಸುತ್ತಿದ್ದಾರೆ. ಈಗ ಇಲ್ಲಿರುವ ಹೇಳಿರುವ ಪ್ರಕಾರ ಅನೇಕ ಕಲಂಗಳು ಅಮೆಂಡ್‌ಮೆಂಟ್ ಆಗಬೇಕಾಗಿವೆ. ಅದರೆ ಅಂತಹ ತಿದ್ದುಪಡಿಗಳನ್ನು ಆರ್ಟಿಕಲ್ 250ರ ಪ್ರಕಾರ ಮಾಡುವುದಕ್ಕೆ ಬರುವುದಿಲ್ಲ. ಯಾವುದೇ ಕಾಯಿದೆ ಇಲ್ಲಿರಬಹುದು ಇರಲಾರದ ಪಕ್ಷದಲ್ಲಿ 250 ಆರ್ಟಿಕಲ್ ಪ್ರಕಾರ ತಿದ್ದುಪಡಿ ಮಾಡುವ ಅಧಿಕಾರ ಸೆಂಟ್ರಲ್ ಗವರ್ನಮೆಂಟಿನಲ್ಲಿ ಪಾರ್ಲಿಮೆಂಟಿಗೆ ಉಂಟು. ಈಗ ಅವರು ಮಾಡಿರುವುದು ತಿದ್ದುಪಡಿ 252ರಪ್ರಕಾರ ಮಾಡುವ ಸ್ವಲ್ಪ ವ್ಯತ್ಯಾಸಮಾಡಿ ನಾನು ಕೇಳಬೇಕಾಗಿದೆ. 1955ರಲ್ಲಿ ಮೈಸೂರು ವಿಧಾನಸಭೆಗೆ ಒಂದು ನಿರ್ಣಯವನ್ನು ಈ ಬಗ್ಗೆ ಮಾಡಿದೆ. ಎಸ್ಟೇಟ್ ಡ್ಯೂಟಿ ಆಕ್ಟ್ 1953ನೇ ಇಸವಿಗೆ ಸಂಬಂಧಪಟ್ಟುದು. ಅದನ್ನು ಈಗಾಗಲೇ ಅಡಾಪ್ಟ್ ಮಾಡಿಕೊಂಡಿದೆ. ಅದನ್ನು ಹೈದರಾಬಾದ್

(ಶ್ರೀ ಎಂ. ನಾಗಪ್ಪ)

ಭಾಗದವರು ಮೊದಲೇ ಮಾಡಿದ್ದಾರೆ, ಬೊಂದಾಯ ಭಾಗದವರೂ ಸಹ ಮೊದಲೇ ಮಾಡಿದ್ದಾರೆ. ಹಳೆಯ ಮೈಸೂರಿನ ಭಾಗದವರು 1955 ರಲ್ಲಿ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ. ಇಡೀ ಮೈಸೂರು ಸಂಸ್ಥಾನಕ್ಕೆ ಅಗಲೇ ಎಸ್ಟೇಟ್ ಡ್ಯೂಟಿ ಪ್ರಕಾರ ಕೆಲವು ಕಾಯಿದೆಗಳನ್ನು ಆಡಾಪ್ಟ್ ಮಾಡಿದ್ದಾರೆ. ಇದಕ್ಕೆ ಏನಾದರೂ ತಿದ್ದುಪಡಿ ಮಾಡಬೇಕಾದರೆ ಸಹಜವಾಗಿ ಅವಕ್ಕೆ ಒಂದು ನಿರ್ಣಯವನ್ನು ಪಾಸ್ ಮಾಡಬಾರದೆ ಅಥವಾ ಒಂದು ನಿರ್ದಿಷ್ಟ ಸೂಚನೆಯನ್ನು ಪಾಸ್ ಮಾಡಬಾರದೆ ಅದನ್ನು ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ತಿದ್ದುಪಡಿ ಮಾಡುವುದಕ್ಕೆ ಬರುವುದಿಲ್ಲ. ಮಾಡಿದರೆ ಅದು ಅಲ್ಟ್ರಾವೈರ್ಸ್ ಆಗುತ್ತದೆ. ಅಂದಮೇಲೆ ಈ ನಿರ್ಣಯದ ಪ್ರಕಾರ ಆಗತಕ್ಕ ತಿದ್ದುಪಡಿಗಳನ್ನು ಜಾರಿಗೆ ತಗೆದುಕೊಂಡು ಬನ್ನಿ ಎಂದು ಹೇಳುವುದಕ್ಕೂ ಬರುವುದಿಲ್ಲ. ಆದಕ್ಕಾಗಿ ನಾನು ಪಾರ್ಲಿಮೆಂಟಿನಲ್ಲಿ ನಡೆದಿರತಕ್ಕ ಒಂದು ವಿಷಯವನ್ನು ಮಾತ್ರ ಸರ್ಕಾರದ ಗಮನಕ್ಕೆ ತರುತ್ತಿದ್ದೇನೆ. ಅದು 25ನೇ ಏಪ್ರಿಲ್ 1958ರಲ್ಲಿ ಅಲ್ಲಿ ನಡೆದಿರತಕ್ಕದ್ದು. ಆಗ ಎಸ್ಟೇಟ್ ಡ್ಯೂಟಿ ಆಕ್ಟ್‌ಮೇರೆ ಒಂದು ತಿದ್ದುಪಡಿ ಬಂದಿತ್ತು. ಆಗರೇ ಆ ರೀತಿಯಾಗಿ ತಿದ್ದುಪಡಿಯನ್ನು ತರಲಕ್ಕೆ ಬರುವುದಿಲ್ಲವೆಂದು ಒಂದು ಕ್ರಿಯಾರೋಪವನ್ನು ಎತ್ತಿದ್ದರು. ಅದನ್ನು ಸಮರ್ಥಿಸುತ್ತಾ ಅಲ್ಲಿನ ಕಾಯಿದೆ ಮಂತ್ರಿಗಳು, ಮಾನ್ಯ ಶ್ರೀ ಎ. ಕೆ. ಸೇನ್ ಅವರು ಕಾಯಿದೆಯ ದೃಷ್ಟಿಯಿಂದ ವಾದಿಸಿದ್ದಾರೆ. ಅದರ ಬಗ್ಗೆ ಸ್ಪೀಕರ್ ಅವರು ಕೊಟ್ಟಿರತಕ್ಕ ರೂಲಿಂಗ್ ಬಹಳ ಮಹತ್ವಪೂರ್ಣವಾದಂಥಾದ್ದು ಆಗಿದೆ. ಆ ರೂಲಿಂಗನ್ನು ಇಲ್ಲಿ ಓದಿದರೆ which equally applies to us also. ಅದು ಬಹಳ ಸಣ್ಣದಿದೆ. ಅದನ್ನು ಓದುತ್ತೇನೆ ಇದು ಬಹಳ ಮುಖ್ಯವಾದಂಥ ಪ್ರಶ್ನೆ.

" I have heard sufficiently. A point of order has been raised that inasmuch as the original Estate Duty Act covers agricultural land which under entry 43 of the State List is exclusively a State subject, before the original legislation could be passed, two or more States should invest Parliament with the power or invoke the aid of Praliament for regulating the subject, by resolutions. It was urged that under clause (2) of article 252, when such an Act was amended, a similar procedure should be adopted, meaning that two or more States must also pass similar resolutions asking Parliament to introduce and pass an amending Bill. In this case, it is admitted that no such resolutions have been passed. It is also admitted that this Bill covers not only non-agricultural land but also agricultural land which is covered in the entry. Therefore it was urged that this House had no jurisdiction to pass this legislation unless resolutions are passed by at least two State legislatures. They may, with the Act so passed, be adopted later on as in clause (1) and also in clause 2).

As against this, the Hon'ble Law Minister has said that when once the jurisdiction of the Central legislature or Parliament has been invoked by resolutions of the State legislatures, the terms apply to the subject-matter and the entire subject-matter relating to the imposition of the estate duty on agricultural land has been conceded to Parliament, and it is open to Praliament to go on amending it from time to time without any further request or futher authority by way of resolutions from the State legislatures. I understand that correctly. Then it is said that clause (2) is only an enabling one and that under general law, whichever legislature passes a Bill has also got the right to amend the same. Under these circumstances it is

unnecessary to invoke the aid of clause (2). It was pointed that clause (2) referred to amendment. The hon'ble Law Minister says that it only enables State Legislatures to pass resolutions requesting Parliament to amend the law. It is also admitted that even without any particular resolution of that kind, if the local Governments or State Governments intimate the Government of the Union that in the interests of a particular State or States similar legislation may be passed, there is nothing preventing the Centre from initiating that legislation. Clause (2) will become unnecessary if this interpretation is accepted.

It appears to me—and a number of hon'ble Members have also expressed that view—that the General Clauses Act cannot apply in this case, that is, a legislature which passes legislation is entitled to amend it. It will be so in the absence of a specific provision, as in clause (2). Reference may be made to article 117 of the Constitution where with respect to the introduction of a Money Bill, the President should give consent. Otherwise, it cannot be introduced. But if it stated so and left it alone, possibly for amendments no sanction might be necessary. But it is definitely stated there that even for amendment, recommendation of the President is necessary. If the Constitution had been silent on that, without enacting clause (2) and left clause (1) alone, the interpretation of the General Clauses Act, that whichever authority has got the right to enact a law will also have the right to amend would have stood. But here a specfiic provision is enacted in clause (2) as to how this amendment has to take place. If the general interpretation is accepted clause (2) will become absolutely useless. No article of the Constitution or clause thereof should be understood to mean as useless. It must have some reference.

Therefore, there is every force in the argument that unless two or more States take the initiative in asking Parliament to amend the law, the jurisdiction vested in Parliament expires after the passing of the Act, and for further amendment, that ought not to be invoked.

But I feel that the prohibition is only to passing of the Act. We are only in the stage or referring this Bill to a Select Committee. Now, we can proceed with reference of this Bill to Select Committee. In the meanwhile, Government can ask the Select legislatures to pass resolutions and get those resolutions here. If, however, the States are not interested, they will not get the enhanced revenue. Some exemptions are removed here. Therefore, it is to the advantage of the States. The Centre is only helping the States so as far this legislation is concerned.

(ಶ್ರೀ ಆಂ. ನಾಗಪ್ಪ)

Therefore, while agreeing that article 252(2) applies, I do not feel that we ought not to proceed with this Bill. It only goes to the Select Committee."

Therefore, their ruling is once the Act has been adopted, even if any amendment is to be made, certain resolutions from respective Assemblies are essential. So, these amendments which have been made cannot be taken as they are passed under article 250 of the Constitution Si , the enactment is already on the Statute Book. That cannot be said that it has been amended in exercise of power vested in article 250. Therefore, I submit that these amendments which are made under article 250 (2) are out of order and they cannot be regularised by merely passing resolutions. If we consider that after passing this resolution that Parliament is going to frame another law or amendment to this particular Act, it must be done with a specific wording in the resolution that they want to amend the Act in some manner and we must show our intention as well as the Central Government should guide us in what manner and in what type they want to amend it. Even the resolution must be specified in such a manner that amendment may be proposed by this House, because we must show our interest in that particular resolution. So, this resolution is vague and it is not in accordance with the provisions of article 252. Even if it is passed, it will only have effect from the date of passing the resolution. It cannot have retrospective effect unless the law has been made. In AIR 1960 Madras, page 205 it has been said that it cannot be made retrospective. The Government is anxious to have retrospective effect to this amendment. But this cannot have retrospective effect but it will take effect from the date of passing of this Resolution. In view of these things, I submit that it has not been placed on the floor of this House in a proper manner and what are the clauses to be amended and therefore the point of order may be allowed and the Hon'ble Minister may not be allowed to move this resolution on the floor of this House.

Sri DIGAMBAR RAO B. KALMANKAR.—Let the Hon'ble Minister inform this House whether a resolution was passed by this House before the Act was passed by the Parliament, requesting them to apply the amended Acts to this State.

† **Sri M. S. KRISHNAN.**—Mr. Speaker, in rising to support the point of order, I have two submissions to make. One is this: the Estate Duty Act was passed in 1953; If you see the history of the Act so far as Estate Duty is concerned, it normally does not cover agricultural land. Even according to 7th schedule of the Constitution, Estate duty in respect of property other than agricultural land is mentioned. Agricultural land is supposed to be covered by the State itself. Still this one was found out only at the tail end of the debate and afterwards it was sent to State Legislature for their opinion in

accordance with article 252 (2). Now it is stated that the resolution that has been brought by the Hon'ble Minister tantamount to giving a shadow of right. That is the main point. Article 252 (2) is very clear. It says :

> "Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State."

It clearly means that any amendment that has been passed by the Parliament after the Act itself is passed, stands and they need not ask the Legislature at all. In fact, in 1953, amendments have taken place in that manner. One of the Acts that has been referred to in this resolution is the Central Boards of Revenue Act, 1963. They have included Estates Duty Act 1953 in order to see that amendments are brought about. In these circumstances, I do not see the reason why the Hon'ble Minister must come forward and ask us to rubber-stamp the amendments passed there. All the amendments to 8 Acts are to be rubber-stamped. We have no right to speak in regard to any of them. If we had a right to speak, now that right has been abrogated by the State itself in accordance with article 252 (2) of the Constitution. Under these circumstances, why should he come now and say that we should rubber stamp the amendments ? It is a question of pacifying the members of this House. It also means a shadow of right and not a substance of a right. It is absolutely unnecessary to bring that resolution here.

7-30 P.M.

The second point is : This Estate Duty Act normally does not cover agricultural lands in the States. It is for the States. When it is a State subject, why should the right be now given to the Centre by virtue of this resolution is my question. I know the Hon'ble Minister will say this right we are not giving now, but we have given it already. My point is, if we have already given it sometime ago, it does not mean that it should not be given now. There is already discussion going on about Centre State relation and it has already become a big problem. When the States want more rights to pass enactments, why should this right be handed over to the Parliament ? I do not see any reason The point is, in regard to estate duty on agricultural land, different parties have different approaches and they would prefer varying slabs. The Swatantra Party may say that it should be done in a different way. All of us should have a right to speak here. Our right should not be taken away from this House, by virtue of this resolution. That is why I oppose this resolution. It is not necessary. It is not in accordance with the spirit of the time.

† Sri S. D. KOTHAVALE.—Some Hon'ble Members have raised a point of order saying that the resolution moved by the Hon'ble Finance Minister is not in order. I am opposing that point of order, Sir.

As a matter of general rule, all the State subjects can be legislated upon by the State Legislature. There are a few exceptions recognised in the Constitution for that purpose and articles 249, 250, 252 are some of the provisions which recognise and make exceptions with respect to the legislative power of the State, and legislative power of Parliament with respect to state subjects.

Hon'ble Members have gone through all these provisions. In order to be very brief, I shall indicate here, that the various Acts mentioned in para 1 of this Resolution, as many as 8 of these amendments have been passed from 1963 up to 1966. This was a period of emergency. That point cannot be disputed. The emergency was lifted with effect from 10th January 1968. Therefore, under article 250 it cannot be disputed that Parliament has the necessary power to legislate upon the State subject particularly in the present context. It is a matter pertaining to Estate Duty. Parliament has the right to legislate under article 250.

Sri DIGAMBAR RAO B. KALMANKAR.—Before these Acts were enacted in the Parliament, whether a resolution was passed by this Legislature regarding these Acts ?

Sri S. D. KOTHAVALE.—I quite appreciate the difficulty raised by my friend Sri Kalmankar. Under article 250 no resolution need be passed. That action has to be taken under 252 which involves the question of passing the resolution by the State Legislature. So also, he can advert to provisions of 249 which says that in case the Council of State Rajya Sabha.....

Sri M. S. KRISHNAN.—There is already an enabling provision for Parliament to pass amendments and when amendments are passed by Parliament without consulting the legislature of the State, why should you now invoke article 252 (2).

Sri K. H. RANGANATH.—The point now is, we had a statute passed in the year 1953 and that too in respect of item 48 of the State List, estate duty on agricultural land. This House has sovereign power to pass any law under item 48 of the State List That power can also be exercised by the Parliament on two occasions, under article 249 by adopting some procedure and in the case of emergency, under article 250.

It is because we have got a statute passed in the year 1953, the amendments that are made are sought to be regularised by us. If we had no law, then it would have been all right. The point now is, we have got a law passed in 1953 which has been adopted by means of a resolution in 1955 and what could not have been resorted to has been

done by means of article 250. Now they say that the amendment is passed, Article 250 is quite clear :

> "250 : (1) : Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List."

Article 252 says :

> "(1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided for in articles 249 and 250, should be regulated in such States by Parliament by law and if Resolutions to that effect are passed by all the Houses of Legislature of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall Apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or where there are two Houses, by each of the Houses of Legislature of that State.
>
> "(2) : Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

Sri S. D. KOTHAVALE.—I thought that Mr. Ranganath wanted to seek clarification. That is why I yielded.

Sri B. P. GANGADHAR.—Now it is already 7-40 P.M. This is a serious matter where legal points are involved. The Speaker may require some time to digest all these things. He will have to dictate his order, In this circumstance I may suggest you may kindly hear that side also and the Chair may also have some time to think over this matter, because it is a legal matter. Because we may be making similar mistakes in future also. I request this matter may be taken up tomorrow and you may also have some time to think over it coolly.

† Sri S. D. KOTHAVALE.—With respect to all these, it may be seen that article 249, 250 and 252 are independent articles and one has nothing to do with the other. Under article 249 when the Council of States—Rajya Sabha passes with 2/3 majority and takes action, it becomes law for the whole of India. Under Article 250 during Emergency, the Parliament has power to make laws for the whole of India and they apply to the whole of India, notwithstanding the fact that it is a State subject. Article 252 is a different provision ; when it is

(SRI S. D. KOTHAVALE)

thought that in the interests of uniformity it is better that Parliament should pass a law regarding a particular State subject and a law is so passed, it would be applicable to all the States in India. In the circumstances now prevailing, it is found that all these measures were passed by the Parliament during the period of Emergency The question is whether we should opt for the amendments and get benefits. If we do not opt to the amendments, what we get by way of our share will be lost to the State Government : that will be the result Under Article 252 of the Constitution, it is not at all necessary that after the passing of the Resolution, the Parliament should proceed to make the law. If a law is passed at the instances of two or more States, it can be adopted by the remaining States by simply passing the Resolution under Article 252. The amendment passed by the Parliament instead of the law as originally passed, may be adopted So, there is nothing wrong in passing this official resolution empowering Parliament. When you get advantage by adopting this resolution relating to Estate Duty, why not we do it ? It is better we pass it. There is no question of sovereignty here ; the sovereignty of this august House need not be doubted. The sovereignty of the House is recognised by the fact that we are passing the Resolution. It is as good as enacting the law ourselves. Therefore, there is no question of deprivation of sovereignty in any manner.

Sri M. S. KRISHNAN.—Where is the question of sovereignty ? It is all a farce. The Congress members speak proudly of the autonomy of the States.

Sri S. D. KOTHAVALE.—By passing this Resolution, the sovereignty of this House or State will in no way, be impaired. As I already said, there is nothing wrong in adopting it. In some matters, there should be uniformity. In the interest of uniformity, it is better to have such a legislation. The Resolution, as moved by the hon. Finance Minister is perfectly in order. There is no constitutional difficulty in adopting this.

Sri RAMAKRISHNA HEGDE.— Sir, the point of order is not in order. It does not look nice to raise a Point of Order on this Resolution under Article 252 of the Constitution. I am sorry that there has been some confusion in regard to the appropriateness of this Resolution. There is no question of surrendering the sovereignty or sovereign powers of the State Legislature. We have always been sharing this power in certain matters to the mutual advantage with the Central Government. The Estate Duty Act, 1953 is a Central enactment and is applicable throughout India, since the Estate duty in respect of agricultural land is item No. 48 in List II (State List) of the Seventh Shedule any amount to the Estate Duty Act, relating to agricultural land, cannot be made by Parliament. So, this is very clear. Further, under Article 250 of the Constitution, the the Parliament could make such amendments during periods of Emer-

gency. This is also conceded. During the present Emergency, the Parliament has made several amendments between 1963 and 1966. But according to Clause (2) of Article 250, these amendments will become inoperative after the expiry of six months from the termination of the Emergency and so, it will become difficult to have these amendments effected by Parliament after the termination of Emergency, unless the elaborate procedure prescribed under Article 249 is followed. After all the amendments made to the Estate Duty Act during this Emergency period ought to be continued even after the Emergency. So, it will be necessary for the State Legislatures to pass a Resolution under Article 252, which would clothe the parliament with necessary powers to give effect to these amendments even after the termination of the Emergency.

The Government of India have, therefore, requested the Mysore Legislature also to pass this Resolution here. It is quite clear that the amendments that have been made to the Estate Duty Act in so far as they relate to agricultural land, ought to be effective even after six months after the expiry of the Emergency. It is necessary to pass this Resolution. We have to consider whether the amendments made during the period of Emergency are advantageous I can tell the hon. House that whatever amendments have been made during the period of Emergency, are to our advantage. Therefore, I appeal to the hon. Members not to raise unnecessary points of orders. This Resolution is absolutely in order.

Sri M. NAGAPPA.—As per Article 252, it is :

> "If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws..."

So far as 1953 Act is concerned, may I know whether it has been enacted under Actical 249 or 250 ? There was a statute on the statute book, *i.e.*, the Estate Duty Act, even prior to 1962. So we have come to this, *i.e.*, the Central Government has already framed or enacted a law namely, the Estate Duty Act.

Sri R. M. PATIL.—He thinks that the 1953 Act is all in all. It is not so. During the period of emergency this 1953 Act has been amended in various stages That emergency has ceased. Within six months of the cease of emergency, if the advantages embodied in the statute are to be continued a resolution has to be passed. There is no question of sovereignty except regularising the clauses that were in that Act. For the purpose of agricultural lands these advantages are to be continued. Passing this resolution is as good as passing a egislation in the Assembly. This is the sum and substance. I think he need not take the time of the House.

Sri M. NAGAPPA.—I think the Minister has misunderstood my statement. I have stated that there was an act already in 1953. That Act shall apply to such states and any other State that

(SRI M. NAGAPPA)

adopts it afterwards. According to us you have adopted that law. The amendments have been made in the year 1963 during the period of emergency.

SRI R. M. PATIL.—Those amendments have to be regularised. Therefore it is not merely the statute of 1953 that is to be validated. The question is, provisions as are amended between 1963 to 1966 are to be validated. For that purpose this resolution has been brought.

SRI M. NAGAPPA.—I think before hearing me he is forming a different opinion. He has not understood me clearly. Once a law is adopted in 1953, it is there. I have read the Lok Sabha Debates. I know unless a resolution is passed by this House no amendment can be brought. My point is that we have adopted a certain law in the year 1955. Now can we go back to Article 250 and amend the law in the name of emergency without following the mandatory provisions of 250 (2) ?

SRI R. M. PATIL.—During the period of emergency even the Constitution can be amended. Under a proclamation these amendments have been effected. In order to validate those amendments which are of beneficial nature to the States this resolution is brought.

MR. DEPUTY SPEAKER.—The point of order raised by Sri K. H. Ranganath is that the resolution moved by the Hon'ble Finance Minister under Article 250 of the Constitution relating to Estate Duty is not in order, that spirit of the resolution that some powers were vested with the Central Government when the emergency was in force, after the period of operation of the proclamation of emergency ceased and the powers are divested. In 1958, the Mysore State passed a resolution adopting the Estate Duty Act so far it related to agricultural land. During the emergency certain amendments have been made and resolution has to be passed by the State Legislature for making amendments. The object of this resolution is to adopt the amendment. Therefore there is nothing illegal. I do not uphold the point of order. I will put the resolution. There are some anendments here. I think the first amendment of Sri Nagappa cannot be moved because these are amendments to the statement of facts. That cannot be moved. I will allow Sri Digambara Rao to move his first amendment.

SRI DIGAMBARA RAO B. KALMANKAR.—I move the amendment.

For para 5 of the resolution the following shall be substituted.—

"Now therefore this Assembly hereby resolves to adopt in pursuance af Article 252 of the Constitutions of India read with sub-section (2) of Section 5 of the Estate Duty

Act, 1953 (Central Act No. 34 of 1953) that the matters specified in the Acts aforesaid in so far as they relate to Estate duty in respect of agricultural land should be regulated in the State by the Central Government."

Mr. DEPUTY SPEAKER.—Amendment Moved:

"That for para 5 of the resolution the following shall be substituted.—

Now therefore this Assembly hereby resolves to adopt in pursuance of Article 252 of the Constitution of India read with sub-section (2) of Section 5 of the Estate Duty Act, 1953 (Central Act No. 34 of 1953) that the matters specified in the Acts aforesaid in so far as they relate to Estate duty in respect of agricultural land should be regulated in the State by the Central Government".

Sri M. NAGAPPA.—My amendment No. 2 is for the last para of the resolution. I think this amendment can be moved.

11-00 P.M.

Mr. DEPUTY SPEAKER.—The Hon'ble Member Sri Nagappa may move his amendment.

Sri M. NAGAPPA.—Sir, I beg to move:

"(1) In para 5, line 1, the word 'to adopt' shall be added after the word 'resolves'.

(2) In para 5, line 2, between the words 'Constitution' and 'that' the words 'and sub-section (2) of section 5 of the Estate Duty Act, 1953' shall be inserted.

(3) In para 5, last line for the words 'should be regulated in the State by Parliament by Law' the words 'should be regularised by Central Government by issuing Notification under sub-section (2) of section 5 of the Estate Duty Act, 1953 (Central Act)' shall be substituted."

Mr. DEPUTY SPEAKER.—Amendment moved:

"That (1) In para 5, line 1, the word 'to adopt' shall be added after the word 'resolves'.

(2) in para 5, line 2, between the words 'constitution' and 'that' the words "and sub-section (2) of section 5, of the Estate Duty Act, 1953' shall be inserted.

(3) In para 5, last line for the words 'should be regulated in the State by Parliament by Law, the words 'should be regularised by Central Government by issuing Notification under sub-section (2) of section 5, of the Estate Duty Act, 1953 (Central Act)' shall be substituted."

Sri DIGAMBARA RAO B. KALMANKAR.—Sir, I beg to move:

"In para 4 of the Resolution, line 3, for the words 'Parliament by law' the words "the Central Government by Notification in the Official Gazette by adding the name of the State to the first schedule,s hall be substituted."

Mr. DEPUTY SPEAKER.—Amendment moved:

"In para 4, of the Resolution, line 3, for the words 'Parliament by law' the words 'the Central Government by Notification in the Official Gazette by adding the name of the State to the First Schedule' shall be substituted."

†Sri DIGAMBARA RAO B. KALMANKAR.—Sir, these particular Acts which were passed under Article 250 of the Constitution at the time of emergency are to be adopted by our State. In article 252 (1) it is stated that, '.....and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that Stats'. We are not asking the Parliament to pass any Act ; only a resolution of this House is sufficient for adopting those Acts which has been passed by the Parliament. Under section 5 (2) of the Estate Duty Act, the Central Government may by notification in the Official Gazette add the names of any other State to the First Scheule in respect of which resolutions have been passed by the Legislatures of those States adopting this Act, under clause (1) of Article 252 of the Constitution. So, this sub-section (2) of section 5 gives powers to adopt only by a resolution and those particular Acts which were passed by the Parliament could be adopted only by passing a resolution. Therefore, the words which are in the official resolution *viz.*, "Now, therefore, this Assembly hereby resolves in pursuance of article 252 of the Constitution that the matters spceified in the Acts aforesaid in so far as they relate to Estate Duty in respect of agricultural land should be regulated in the State by Parliament by Law " are not necessary and only the addition of the word 'to adopt' is sufficient.

Sri M. NAGAPPA.—Sir, before I say something, I want to know from the Hon'ble Minister whether they are going to bring any amending Bill after this resolution is passed.

Sri RAMAKRISHNA HEGDE.—It is not necessary to bring in an amending Bill.

Sri M. NAGAPPA.—Then, Sir, the resolution as it stands that has been moved by the Hon'ble Minister is not in order. As I have already stated, this resolution must be quite clear and unambiguous about the amendments to be passed.

Sri S. D. KOTHAVALE.—Under article 252 (1) it is not necesary that this resolution should contain the amendments to be passed. The other States which want to take advantage may simply pass a resolution and get the advantage of the Law already passed.

Sri N. NAGAPPA.—It means that we can also suggest some amendments to the proposed Bill. The Hon,ble Minister has clarified that some Bill is going to be moved in Parliament.

Under Art. 252 (2) it cannot be amended. Sub-clause (2) says:

"252 (2). - Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State."

Therefore, I definitely say, that is going to be moved as a Bill there. This House has nothing to say anything on that. The question of regulating the law in any like manner does not arise. I have therefore added the words 'to adopt'. We have to adopt everything in the Bill which has already been passed. Therefore, the word 'adopt' is essential there and my amendment is quite in order as per sub-clause (2 of 252 read with 250. There is no opportunty to amend any provisions of this particular Act. I therefore, request that my amendment may be accepted.;

Mr. DEPUTY SPEAKER.—I will put amendment No 2 to the Vote of the House. The question is:

"That (1) in para 5, line 1, the word 'to adopt' shall be added after the word 'resolves'.

(2) In para 5, line 2, between the words 'Constitution' and 'that' the words 'and sub-section (2) of section 5 of the Estate Duty Act, 1953' shall be inserted.

(3) In para 5, last line for the words 'should be regulated in the State by Parliament by law' the words 'should be regularised by Central Government by issuing notification under sub-section (2) of Section 5 of the Estate Duty Act, 1953 (Central Act)' shall be substituted".

The amendment was negatived.

Now, amendment of Sri Digambara Rao. The question is:

"That for para 5, of the resolution, the following shall be substituted.

'Now', therefore, this Assembly hereby resolves to adopt in pursuance of Article 252 of the Constitution of India read with sub-section 'O of Section 5 of the Estate Duty Act, 1953 (Central Act, No. 34 of 195:) that the matters specified in the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land should be regulated in the State by the Central Government.,"

The amendment was negatived.

Mr. DEPUTY SPEAKER.—Now I will put the amendment No. (1). The Question is :

" That in para 4 of the Resolution in line 3, for the words 'Parliament by law' the words 'the Central Government by Notification in the Official Gazette by adding the name of the State to the First Schedule,' shall be substituted."

The amendment was negatived.

Now I will put the main motion to the both of the House. The question is :

"That whereas during the period of operation of the Proclamation of Emergency, the Estate Duty Act, 1953 (34 of 1953) has been amended by Parliament by the following Acts, viz.,

(1) The Central Boards of Revenue Act, 1963 (54 of 1963)
(2) The Finance Act, 1964 (5 of 1964)
(3) The Taxation Laws (Continuation and validation of recovery Proceedings) Act, 1964 (11 of 1964).
(4) The Direct Taxes (Amendment) Act, 1964 (31 of 1964).
(5) The Finance Act, 1965 (10 of 1965)
(6) The Finance (No. 2) Act, 1965 (15 of 1965).
(7) The Taxation Laws (Amendment and Miscellaneous Provisions Act) 1965 (41 of 1965) and
(8) The Finance Act, 1966 (No. 13 of 1966).

And whereas under clause (2) of the Article 250 of the Constitution the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land, shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate ;

And whereas after the proclamation has ceased to operate, Parliament has no power to make laws for the States except as provided in article 249 of the Constitution with respect to matters specified in the Acts aforesaid in so far as they relate to estate duty in respect of Agricultural land ;

And whereas it appears to this Assembly to be desirable that the matters specified in the Acts aforesaid should be regulated in the State by Parliament by law not withstanding the expiration of the period of six months after the proclamation has ceased to operate.

Now, therefore this Assembly thereby resolves in pursuance of article 252 of the constitution that the matters specified in the Acts aforesaid in so far as they relate to estate duty in respect of agricultural land should be regulated in the State by Parliament by law."

The motion was adopted.